

§ 268.9 Discussion of terms.

(a) *Accounts receivable.* “Accounts receivable” consist of those amounts due in which the original payment time required full payment within 90 days of delivery or performance. It excludes principal payments or interest on short-term and long-term loans and credits.

(b) *Arrearage delinquency determination.* Obligations generated by formal agreements, as in the case of Foreign Military Sales contracts, are due on the dates specified in the contract or on the date specified in billings rendered in accordance with these contracts. Obligations incurred under Military Mission Support (Program 142) Logistical Support (Program 143) and any other authorized programs are due on the date billings are made to the customer country unless otherwise stated in the bill. Followup and reporting actions required by this part will be taken based on these dates. (See § 268.5.)

(c) *Country designations.* For reporting purposes, grants and contingent liabilities will be identified with the country which receives the benefit. Loans and credits will be identified generally with the country of the obligor or, in the instance of official multinational organizations, with the institution name. When the project is located in, or goods are destined for another country or area, the latter country or area should be stated in the description of purpose. If a government credit intermediary is the obligor, the transaction should be identified with the country where the project is located or the goods are destined.

(1) *United States.* “United States” shall mean the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Canal Zone, Guam, Midway Island, U.S. Virgin Islands, and Wake Island.

(2) *Foreign country designations.* Country designations other than the “United States” shall be consistent with the standardized names and codes contained in the Military Assistance and Sales Manual (MASM).

(3) *Official Multinational Organization.* For reporting purposes, “Official Multinational Organization” shall mean

any international or regional organization (or affiliated agency thereof) created by treaty or convention between sovereign states.

(d) *Dollar equivalents of foreign currency.* Represents dollar equivalent of all foreign currency amounts disbursed and still outstanding, undisbursed balances, and arrearages of principal and interest. They shall be computed at the reporting rate prescribed by Treasury Department Circular No. 930 for balances as of the end of the reporting period. The dollar equivalents of all other reportable amounts shall be the summation of individual transactions computed at the reporting rate prescribed for the period in which the transactions occurred.

(e) *Foreign indebtedness.* “Foreign indebtedness” means financial obligations owed to the U.S. Government by the following entities in connection with DoD activities.

(1) Any individual, including a citizen of the United States (excluding U.S. military members and U.S. Government employees) domiciled outside the United States.

(2) Any partnership, association, corporation, or other organization created or organized under the laws of a foreign country, excepting branches or agencies thereof located in the United States.

(3) Any branch, subsidiary, or allied organization within a foreign country of a partnership, association, corporation, or other organization created or organized under the laws of a foreign country or the United States.

(4) Any government of a foreign country and any subdivision, agency, or instrumentality thereof, including all foreign “Official” institutions, even though located in the United States.

(5) Any private relief, philanthropic, or other organization of a multinational or regional character with headquarters abroad.

(6) Any official multinational organization, defined as any international or regional organization (or affiliated agency thereof) created by treaty or convention between sovereign states.

(f) *Indebtedness*. “Indebtedness” within the context of this part refers to financial obligations to make payment(s) to the U.S. Government in accordance with contractual or other arrangements. Such obligations generally arise from

(1) The disbursements of cash to be repaid at a future time (with or without interest),

(2) The extension of credit (by formal agreement or an open book account) in connection with the sale of products, property, or services,

(3) The formal deferral of interest collection,

(4) The purchase or repurchase of obligations that have been insured or guaranteed by the U.S. Government, and

(5) Payments by the U.S. Government in cases of default on insured or guaranteed loans and other investments when the U.S. Government acquires a debt instrument from the insured.

(g) *Long-term loans and credits*. “Long-term loans and credits” include any indebtedness under which the original payment terms provided for payment within a period of time exceeding one year after delivery or performance.

(h) *Official obligor*. “Official obligors” are debtors or guarantors who are:

(1) Central governments or their departments (ministries) or components, whether administrative or commercial.

(2) Political subdivisions such as states, provinces, departments, and municipalities.

(3) Foreign central banks.

(4) Other institutions (such as corporations, development banks, railways, and utilities) when (i) the budget of the institution is subject to the approval of the government, or (ii) the government owns more than 50 percent of the voting stock or more than half of the members of the board of directors are government representatives, or (iii) in the case of default the government or central bank would become liable for the debt of the institution.

(5) Any official multinational organization.

(i) *Private obligor*. “Private obligors” are all debtors or guarantors who are not defined as “official obligors.”

(j) *Program*. “Program” is the law, international treaty, appropriation, or other authority under which the loans or credits are extended, or the accounts receivable arise. When a narrative program designation is required, commonly used terms should be used, e.g., Arms Export Control Act, Logistical Support, and Military Assistance Advisory Groups.

(k) *Short-term loans and credits*. “Short-term loans and credits” include any indebtedness under which the original payment terms provided for payment within a period from 90 days to and including one year after delivery or performance.

(1) *Time conventions*. The terms 30, 60 and 90 days should be interpreted to mean 1, 2, and 3 calendar months, respectively. That is, the period February 6 through May 5 would be considered to be 90 days. For example, in calculating amounts “due and unpaid” 90 days or more as of December 31 the amounts due before October 1 and remaining unpaid as of December 31 would be reportable. However, amounts due as of October 1 but remaining unpaid at December 31 would not be reportable.

PART 269—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

Sec.

269.1 Scope and purpose.

269.2 Definitions.

269.3 Civil monetary penalty inflation adjustment.

269.4 Cost of living adjustments of civil monetary penalties.

269.5 Application of increase to violations.

AUTHORITY: 28 U.S.C. 2461.

SOURCE: 61 FR 67945, Dec. 26, 1996, unless otherwise noted.

§ 269.1 Scope and purpose.

The purpose of this part is to establish a mechanism for the regular adjustment for inflation of civil monetary penalties and to adjust such penalties in conformity with the Federal Civil Penalties Inflation Adjustment Act of 1990, 46 U.S.C. 2461, as amended by the Debt Collection Improvement Act of 1996, Public Law 104-134, April 26, 1996, in order to maintain the deterrent effect of civil monetary penalties